



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/760,052	01/12/2001	Ram Rajagopal	5150-51800	2604

7590 12/21/2004
Jeffrey C. Hood
MEYERTONS, HOOD, KIVLIN, KOWERT & GOETZEL PC
P.O. Box 398
Austin, TX 78767-0398

EXAMINER

DASTOURI, MEHRDAD

ART UNIT PAPER NUMBER

2623

DATE MAILED: 12/21/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/760,052

Applicant(s)

RAJAGOPAL ET AL.

Examiner

Mehrdad Dastouri

Art Unit

2623

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
 - If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
 - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
 - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 23 November 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-13, 16, 17, 19 and 21-50 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-13, 16, 17, 19 and 21-50 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☐ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date November 23, 2004.
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: _____.

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on November 23, 2004 has been entered.

Response to Amendment

2. Applicants' amendment filed October 22, 2004, has been entered and made of record.

Double Patenting

3. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double

Art Unit: 2623

patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

4. Claims 1-39 and 44-50 are rejected under the judicially created doctrine of double patenting over Claims 1, 7, 8-11, 24-28, 31-35, 39-45, 49, 50, 55-60, 63-67 and 70 of U. S. Patent No. 6,807,305 since the claims, if allowed, would improperly extend the "right to exclude" already granted in the patent.

The subject matter claimed in the instant application is fully disclosed in the patent and is covered by the patent since the patent and the application are claiming common subject matter of determining a "best match" (recited as template matching in the U.S. Patent 6,807,305) of an input signal of interest (target image) from a set of candidate signals (recited as set of template images).

Claim Rejections - 35 USC § 112

5. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

6. Claims 1-13, 16, 17, 19 and 21-50 are rejected under 35 U.S.C. 112, second paragraph.

Claims 1, 26, and 38-45, 48 and 49 recites the limitation "said determining a unified transform signal" in first paragraph following the claim preambles. There is insufficient antecedent basis for this limitation in the claim.

Claims 2-13, 16, 17, 19 and 21-25 depend on Claim 1. Claims 27-37 depend on Claim 26. Claims 46 and 47 depend on Claim 45. Claim 50 depends on Claim 49.

Claim Objections

7. Claims 26-37 are objected to because of the following informalities:

In Lines 1 and 2 of Claim 26, "A memory medium comprising program instructions which are executable" should be corrected to "A memory medium comprised in a computer comprising program instructions which are computer-executable".

In Line 4 of Claim 26, " the program instructions are executable to perform:" should be corrected to " the program instructions are computer-executable to perform:"

Appropriate correction is required.

Information Disclosure Statement

8. The information disclosure statement filed on November 23, 2004, does not include a concise explanation of the relevance, as it is presently understood by the individual designated in 37 CFR 1.56(c) most knowledgeable about the content of the information. The submitted prior art (Fourier Analysis on Finite Groups and Applications, Chapter 15) refers to other chapters such as Chapters 2, 16, 17, 18 and 21 of the document; and a plurality of references only by Authors' names which encompasses a vast amount of information not all of them necessarily related to the instant invention. It has been placed in the application file, but the information referred to therein has not been considered. This prior art will be considered if a concise explanation of the relevance with the claimed invention could be provided.

Response to Arguments

9. Applicants' have amended Claims 1, 26, and 38-44 to include the limitations of objected Claims 14 and 15. Consequently, previous rejection of these claims and their dependent claims are withdrawn.

10. New independent Claims 45, 48 and 49 that include the limitations of original Claims 1 and 11; original Claims 1, 14, and 18; and original Claims 1, 19, and 20; respectively that are patentably distinct over the cited prior arts of record.

11. Independent Claims 1, 26, and 38-45, 48 and 49 would be allowable by providing a timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) to overcome the rejection based on a nonstatutory double patenting, and if rewritten to overcome 35 U.S.C. 112, second paragraph rejection and minor informalities set forth in the Office Action.

Contact Information

12. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Mehrdad Dastouri whose telephone number is (703) 305-2438. The examiner can normally be reached on Monday to Friday from 8:00 a.m. to 4:30 p.m..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Amelia Au can be reached on (703) 308-6604. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Art Unit: 2623

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Mehrdad Dastouri
Primary examiner
Art Unit 2623
December 20, 2004

MEHRDAD DASTOURI
PRIMARY EXAMINER

Mehrdad Dastouri